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C O N F I D E N T I A L SECTION 01 OF 02 TEGUCIGALPA 000939

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E.O. 12958: DECL: 09/18/2019

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SUBJECT: TFH01: SUPREME COURT JUSTICE SAYS CONGRESS RATHER
THAN COURT KEY TO SAN JOSE

Classified By: Ambassador Hugo Llorens for reasons 1.4 (b/d)

¶1. (C) Summary. Supreme Court magistrate David Calix Vallecillo, who claims he was outside Honduras during the period shortly before and after the June 28 coup, told Poloffs that the Supreme Court has not issued any binding judicial decisions regarding the country's political crisis. Calix said that the Court has little to do with the interpretation of the legality of the San Jose Accord since it is, in essence, a political agreement. He said the Congress is key to resolution of the crisis since it needs to approve any amnesty agreed to by the political actors. End Summary.

¶2. (C) Poloffs met on September 16 with Supreme Court magistrate David Calix Vallecillo, at his request. Calix contacted the Embassy through anti-coup Liberal Party congressperson Argentina Valle Villalta. The meeting took place at the home of Armando Sarmiento, former Director of Honduras' Internal Revenue Service, because Vallecillo did not want to meet at the Embassy. Calix began by telling Poloffs that he had read media reports stating that the U.S. nonimmigrant visas of all Supreme Court magistrates have been revoked, but that he has not received any letter from the U.S. government regarding this matter. Poloffs made no comment on this issue. Calix said he was meeting with us as a concerned citizen of Honduras in a private capacity.

¶3. (C) Calix stated that he was not in Honduras on June 28. He explained that he was on vacation in Spain on June 19-July

¶15. He described the crisis as a political issue with some judicial aspects. Calix said he believes the Supreme Court should play an impartial role regarding the crisis. He noted that Honduras is totally isolated in the international community. Calix said that the Congress is key to resolution of the crisis since it is the Congress which needs to approve any amnesty agreed upon by the political actors. He said he believes that the Congress and the military should explain how President Zelaya was deposed and removed from the country.

¶4. (C) Calix explained that the Supreme Court does not have the power to order the arrest of the President of the Republic. He said the Court accepts a case against the chief executive and appoints a Supreme Court judge to be in charge of the case. Calix said that it is the judge put in charge of the case who issues the arrest warrant and the President is then required to appear before the court. Calix clarified that the Supreme Court has not issued any judicial decisions regarding the political crisis. According to Calix, the

Court has only issued statements, which are not binding. Poloff queried Calix about the nature of the document the Supreme Court issued regarding the San Jose Accord. Calix responded that it was not a judicial decision, but just an opinion. He stated that the media erroneously portrayed it as an indication that the Court opposes the San Jose Accord. He added that he personally felt that the point made by the Supreme Court stating that President Zelaya could only return to Honduras if he faced criminal charges went beyond the scope of the Court's competence and he argued against it. Calix said the Court has very little to do with the interpretation of the legality of San Jose because it is a political agreement. He added that the Congress must address the point in the Accord regarding amnesty, the Supreme Electoral Tribunal must address the point regarding moving up the date for the election, and the President would have to create the unity government called for by the Accord. He noted that despite the opinion issued by the Court regarding the San Jose Accord, Congress could still move forward with a "political agreement" such as San Jose.

15. (C) Calix explained that there was a strong feeling among the members of the Court before June 28 that President Zelaya was planning to dissolve the Court and the Congress. He said he did not believe that Zelaya would do so and that he believed that Zelaya was just setting himself up to run again for re-election.

16. (C) Calix said a political agreement needs to be reached before the election. He said the presidential candidates should be worried about the election given the current circumstances and hypothesized that this was the motivation

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for their trip to San Jose to meet with Costa Rican President Oscar Arias. He noted that if the international community and many Hondurans have concerns about the way in which elections are carried out, the crisis could go on for months or even longer. Calix told us that his colleague on the Court, Jacobo Calix (they are not related), had spoken publicly against the events of June 28 and shares some of his views.

17. (C) Comment: The meeting request was presented to Poloff as an opportunity for Calix to propose a "way forward" regarding the country's political crisis. Instead, it seemed to Poloffs that Calix wanted to make sure that the USG understood that he is not a coup supporter. It might also have been an attempt to ensure that the U.S. does not view the Supreme Court as an institution that is opposed to democracy and the constitutional order.

LLORENS